THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12373 of 1996

ORAL ORDER:

This writ petition is filed challenging the Award passed by the second respondent-Labour Court in I.D.No.287 of 1990 dated 22.12.1995.

The petitioner is the management and first respondent is workman. It appears, first respondent-workman was terminated from service on 12.9.1987. According to the petitioner, a farce of an enquiry was conducted and the management was enemically disposed towards him in view of the fact that earlier he filed I.D.No.1 of 1982 before the Labour Court, in which, the management was directed to reinstate the workman with full backwages and other attendant benefits. Aggrieved by the same, management filed W.P.No.7630 of 1983, and the same was dismissed by this Court. Aggrieved by the same, management carried the matter in appeal bearing W.A.No.389 of 1985, which was also dismissed by this Court on 30.4.1985. In view of the same, the management has framed false charges against him and conducted a farce of enquiry and terminated from service on 12.9.1987. Aggrieved by the same, first respondent-workman raised a dispute under Section 2A(2) of the Industrial Disputes Act, 1947 before the first respondent-Labour Court in I.D.No.287 of 1990. It was the case of the workman that the enquiry was not properly conducted and no opportunity was given to him and the punishment of dismissal from service was disproportionate to that of the misconduct alleged against him.

The petitioner-management filed a detailed counter denying the allegations made by the workman and stated that it had conducted the enquiry as per law after following principles of natural justice.

Before the Labour Court, none were examined on behalf of both parties, however, on behalf of petitioner-management Ex.M1 dated 10.9.1987-copy of the findings of the enquiry proceedings was marked. After detailed consideration of the pleadings and the enquiry officer's proceedings, the Labour Court by order dated 1.9.1984 found that the domestic enquiry conducted by the management was valid and posted the matter for final hearing. After hearing the matter finally, the Labour Court came to the conclusion that absolutely no evidence was placed before it substantiating the findings recorded by the enquiry officer. It was further held that absolutely there is no evidence before the enquiry officer to come to the conclusion that the workman was guilty of the charges, therefore, the management was directed to reinstate the workman into service with continuity of service and full backwages. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner-management strenuously contended that once the enquiry conducted by the management held to be valid, there is no necessity of placing any record before the Labour Court for its examination and further it cannot be said that the punishment of dismissal from service is disproportionate to that of the misconduct alleged against the workman.

Whereas, the learned counsel for respondent-workman supported the impugned award passed by the Labour Court

and contended that it is not just marking of enquiry report, the basis on which the enquiry report was submitted needs to be examined by the Labour Court and when such a record was called for, the management failed to produce the same. Under those circumstances, the Labour Court has rightly held that absolutely there is no evidence to support the enquiry officer's report and the order passed by the management terminating the services of the workman, is arbitrary and illegal. No ground is made out to interfere with the award passed by the Labour Court. The writ petition is devoid of merits and liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

It is an admitted fact that except marking the enquiry officer's report dated 10.9.1987, no other records relating to enquiry have been placed before the Labour Court in spite of its requisition and granting several adjournments. Further, I cannot agree with the submission made by the learned counsel for petitioner-management that once the enquiry is said to be valid, there is no necessity for producing any other record relating to the enquiry for the purpose of examination by the Labour Court. It is the basic principle of law that while examining the enquiry officer's report and dismissal order passed by the authority, it is necessary for the Labour Court to examine what was the exact evidence placed before the Enquiry Officer to come to a conclusion that the workman was guilty of the charges. In this case, in

spite of granting several adjournments and requisitions made by the Labour Court, the management did not produce any such record supporting the findings of the Enquiry Officer. It seems, as many as six witnesses were examined before the Enquiry Officer. The statements of the witnesses and other records were not made available before the Labour Court for the purpose of its examination. Therefore, I am of the opinion that the Labour Court has rightly came to the conclusion that the management has no records and the enquiry purported to have been conducted cannot be the basis for coming to the conclusion that the workman is guilty of the charges. Before this Court also, the learned counsel for petitioner-management is not able to produce any record relating to the enquiry. This itself shows that either a farce of enquiry was conducted or there was no enquiry conducted or the enquiry report is a fabricated one. For all the above reasons, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU, J

Date: 18.1.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12373 of 1996

18.1.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12373 of 1996

Date: 18th January, 2006

Between:

The Management of Fateh Maidan C6lub,

L.B.Stadium, rep. by its Secretary.

.. Petitioner

And

L.Jayaram & others.

.. Respondents